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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 UNITED STATES OF AMERICA, No. 2:95-CR-504 WBS
12 Court of Appeals No. 13-16380
13 Plaintiff,
14 vs. ORDER DENYING CERTIFICATE OF
15 APPEALABILITY
16 JOSE LUIS BUEN ROSTRO,
17 Defendant.
18 _____/

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20 Defendant has filed notice of appeal from this court's
21 Order of May 23, 2013. Appellate Commissioner Peter L. Shaw has
22 ordered the matter remanded to this court for the limited purpose
23 of granting or denying a certificate of appealability. A
24 certificate of appealability may issue under 28 U.S.C. § 2253
25 "only if the applicant has made a substantial showing of the
26 denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

1 This court is unable to identify any issue that
2 petitioner can demonstrate is "'debatable among jurists of
3 reason,'" could be resolved differently by a different
4 court, or is "'adequate to deserve encouragement to proceed
5 further.'" See Jennings v. Woodford, 290 F.3d 1006, 1010 (9th
6 Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893
7 (1983)). This amounts to defendant's third successive motion
8 under § 2255. See United States v. Buenrostro, 638 F.3d 720, 723
9 (9th Cir. 2011). Defendant may not bring a successive § 2255
10 motion without first obtaining leave of the Ninth Circuit. 28
11 U.S.C. § 2255(h). Because he has not done so,

12 IT IS HEREBY ORDERED that a certificate of
13 appealability is DENIED. The Clerk is ordered to forward a copy
14 of this order to the Clerk of the United States Court of Appeals
15 for the Ninth Circuit forthwith.

16 DATED: August 12, 2013

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18 WILLIAM B. SHUBB
19 UNITED STATES DISTRICT JUDGE
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